(3)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (C.G.)

M.A.NO. 247 -2002

APPELLANTS
CLAIMANTS : 1) Ramnarayan, Son of Late Baldev aged about 37 years,

2) Shivnarayan, Son of Late Baldev, aged about 32 years,

Both are resident of village - Ghat Pendari, Police Station - Pratappur, Tahsil - Surajpur, Distt. Surguja, Chhattisgarh.

VERSUS

RESPONDENTS
NON-APPLICANTS

1) M/s Durga Motor Service, Old Bus Stand, Ambikapur, Distt. Surguja.

Through : Brijendra Gupta, Son of Not known, aged about 42 years, R/o. Old Bus Stand, Ambikapur, Distt. Surguja (Chhattisgarh).

(OWNER)

2) Kailash Prasad Chaurasiya, Son of Biganpaneri, aged about 47 years, Occupation - Driver, R/o. Bartikala Chalgali, Tahsil - Wadraf Nagar, Distt. Surguja (Chhattisgarh).

(DRIVER)

3) New India Insurance Co. Limited,

Through : General Manager, Regd. Office and Head Office, Building No.87 Mahatma Gandhi Marg, Fort Mumbai 40001

(INSURER)

...02

P.R. No. 602/02
Presented by Shri Ashutosh Shrivastava
dated 04-03-2002

(A)

APPEAL UNDER SECTION 173 OF THE MOTOR VEHICLE ACT, 1988

FOR THE ENHANCEMENT OF THE AMOUNT OF AWARD.

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.A.No.247/2002 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Division Bench :

HON'BLE SHRI FAKHRUDDIN, Ag. C.J.
& HON'BLE SHRI SUNIL KUMAR SINHA, J.

31-01-2005.

Shri Ashok Kumar Shukla, counsel for the appellants.

Shri Ashok Gupta, counsel for respondent No.3/ Insurance Company.

Heard.

This appeal under Section 173 of the Motor Vehicle Act, 1988 has been preferred by the appellants/Claimants for enhancement of the quantum of award passed by the learned Claims Tribunal.

In this case, the rash and negligence on the part of the respondents is not in dispute.

Learned counsel for the parties submit that an award of Rs.77,000/- was passed in favour of the appellants. However, during the pendency of the present appeal a compromise has been arrived at by the parties and an additional amount of Rs.60,000/- has been agreed to be paid to the appellants/claimants. A document to this effect has also been filed. It is also agreed by both the parties that the amount due shall be paid within a period of two months from today and in view of the aforesaid compromise, the appellants do not want to prosecute the appeal.

We have gone through the records. The enhanced figure worked out on compromise appears to be just and proper.

In this view of the matter, it is directed that the appellants/claimants shall get total sum of Rs.1,37,000/- as compensation and, therefore, the award passed by the learned Claims Tribunal is modified to the extent

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

indicated above. In other words, the appellant would get a sum of Rs.60,000/- over and above what has been already awarded by the learned Claims Tribunal. It is made clear that if the amount due is not paid to the appellants as per the compromise arrived at by the parties within a period of two months from today, the appellants shall be entitled to charge interest @ 9% per annum from the said date till its realization. The direction in relation to apportionment, if any, given in the award shall also apply to the enhanced amount.

The appeal stands disposed of in terms of compromise arrived at by the parties.

We, however, very much appreciate the efforts made by learned counsel for the parties.

Counsel's fee as per rules.

Certified copy as per rules.

Sd/-
Sunil Kumar Sinha
Judge

Sd/-
Acting Chief Justice

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